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ARCH COMMUNICATIONS GROUP, INC.

June 27, 1996

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: CC Docket No. 95-185
CC Docket No. 96-98
Ex Parte Presentation

Dear Mr. Caton:

On June 18, 1996, counsel for Arch Communications Group, Inc. ("Arch") filed a Notice of an Ex Parte presentation to FCC staff concerning compensation for call termination services by wireless service providers and in particular by paging carriers.

The above referenced presentation was largely devoted to negotiations between Arch and various local exchange carriers in the eastern and southern states where Arch has, until recently, focused its operations. In mid-May, however, Arch acquired control of The Westlink Company, which provides conventional paging services in 18 western and mid-western states. A Westlink affiliate, Benbow PCS Ventures, Inc., has also been licensed to provide narrowband PCS services in the western half of the United States. These new members of the Arch family have been engaged in efforts to negotiate new interconnection arrangements with at least three major LECs which were not discussed extensively in our earlier communication, i.e., Pacific Bell, US West New Vector Group ("US WEST") and GTE. Unfortunately, the results of these negotiations have been no more favorable than those between Arch and the LECs in other regions. While things change from day-to-day, you should take note of the following:

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1. US WEST has not offered anything new to paging carriers in response to the requirements of the Act. One representative of US WEST recently stated to our counsel that the "mutual compensation" rule may not apply to paging carriers since "paging traffic is all in one direction."

2. GTE serves about 40% of the landline telephone customer base in Southern California, and with its acquisition of Contel has also acquired a significant position in the central part of the state. Arch's counsel, acting on behalf of the two Arch affiliates as well as the state association of paging carriers, has spoken to, and exchanged correspondence with, GTE in connection with paging interconnect matters. Nearly two months have now passed since the initial approach by counsel, yet GTE has yet to confirm that paging carriers are even entitled to mutual or reciprocal compensation, let alone make a concrete offer to the industry. In the meantime, GTE continues to charge the interconnect rates which were prevalent prior to the passage of the Telecommunications Act of 1996. In a Type-2 context, these include code opening charges of $11,000 per NXX block.[1/] This is inconsistent with the current treatment of other industry participants, as will be discussed in paragraph 5.

3. Pacific Bell was first approached (in writing and by counsel) on April 23, 1996. Following this contact, the attorney for Arch's affiliates and the state association has met with Pacific to discuss CMRS interconnection in light of the Telecommunications Act, and has on several occasions sought mutual compensation for paging carriers from Pacific. However, Pacific has made no offer to California's paging carriers, but has instead argued that such carriers must await expiration of their current contracts (which are claimed to have a five year term) before negotiations can take place. Pacific also continues to impose a significant NXX code opening charge (up to $35,000 per code in metropolitan areas).

4. In the meantime, various LECS have continued to enter into mutual compensation arrangements with CLCs. While many of these are of the "bill and keep" variety, others assign specific dollar amounts to the call termination function. The most pertinent data again relates to California, where GTE and Pacific Bell have concluded agreements with (among others) Metropolitan Fiber Systems ("MFS"), Telecommunications Group ("TCG"), and a smaller competitive local carrier ("CLC") called Pac West Telecomm, Inc. Each of these agreements has been publicly noticed through procedures established by the California Public Utilities Commission ("CPUC"). They reveal that California's

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1/ Type-1 numbers charges in California are enormously arbitrary. For example, Contel charges $.65 per number per month in its exchanges, GTE Northwest charges $.23 per number in its exchanges, and Pacific Bell charges $.004 per number in its territory.

two largest LECs have offered to compensate CLCs for terminating traffic originated by Pacific and GTE customers. This compensation ranges (for local calls) from .75 cents per minute to 1.4 cents per set-up plus .3 cents per minute duration. The functions performed by CLCs like TCG, MFS and Pac West are technically indistinguishable from those performed by paging carriers under existing agreements with Pacific Bell and GTE. Yet, paging carriers receive nothing for those services and are obligated to pay for transport facilities between their switches and the LECs.

5. Finally, you should be aware that the CPUC has ratified privately negotiated arrangements among Pacific, GTE and various CLCs to the effect that on an interim basis there will be no code opening charges levied on the CLCs. See CPUC Resolution 15824 and Decision 96-03-020 at pp. 83 *et. seq.* When the CPUC decides the amount of such charges (if any), there will be a retroactive "true-up." California's paging carriers have requested (so far without success) the same arrangement, or, at the very least, an agreement from Pacific Bell and GTE that amounts paid over for new codes since the CPUC's decision be refundable in the likely event that the CPUC (and/or this Commission) decide that code opening charges are inappropriate.

Arch believes that the above information, when taken together with its earlier presentation, points to an inescapable conclusion. Without clear and firm guidelines from this Commission, major LECs in all parts of the country are likely to continue to evade their responsibilities under the Act. They are likely to provide mutual compensation where it suits them (as in the cellular context where they terminate more calls than they originate). They are also likely to refuse to pay such compensation where the result is unfavorable to them (as in the paging situation where calls originated by LEC customers are terminated by wireless carriers). Similarly, the greater bargaining power of many CLCs will get them not only termination payments, but also free telephone numbers. Paging carriers, though they perform the same call termination functions as their CMRS brethren and CLCs, will receive nothing for terminating calls, and will continue to pay substantial amounts for numbers. Such dissimilar treatment of paging companies is unreasonable since the nature of a paging call over the LEC's facilities is indistinguishable from other types of calls. In fact, such distinction becomes even more difficult with the advent of the provision of paging services by SMR and PCS service providers.

Different LECs will make different arguments. Some will say that the "mutual" or "reciprocal" compensation rule applies only where traffic goes in two directions. Others will say that the rule only applies to two-way voice communications. This Commission should recognize such arguments for what they are, i.e., tactics designed to delay even-handed implementation of a clear Congressional mandate.

Sincerely,

Paul H. Kuzia, Vice President
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